THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 4831 of 2006

Dated: 26.10.2006

Between:

Mohd Fayazuddin Habeeb.

..... PETITIONER

AND

The Presiding Officer, Industrial Tribunal-II, Hyderabad another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.4831 of 2006

ORDER:

Assailing the award, dated 27.07.2005, passed by the Industrial Tribunal-II, Hyderabad, in I.D. No. 110 of 2004, directing the 2nd respondent to pay lump sum amount of Rs.75,000/- to the petitioner instead of ordering reinstatement into service with continuity of service and backwages, the present writ petition is filed.

2. The petitioner was appointed as a Conductor in the APSRTC on 01.11.1978. He was issued a charge sheet dated 07.12.1996, alleging that he unauthorizedly absented from his duties from 21.11.1996 to 07.12.1996. He submitted his explanation dated 11.12.1996, denying the said charges. Dissatisfied with the said explanation, an enquiry was conducted, and the Enquiry Officer, who conducted the enquiry, submitted his report dated 16.12.1996 stating that the charges against the petitioner are proved. While keeping the said report in abeyance, the petitioner was taken into service and subsequently, the petitioner remained absent from 21.03.1998 onwards, and in such circumstances, without there being any further enquiry, based on the earlier enquiry report dated 16.12.1996, a show cause notice of removal dated 30.05.1998 was issued to the petitioner, for which, he submitted his explanation on 05.06.1998. Finally, the 2nd respondent, vide proceedings dated 29.06.1998, passed the removal orders. Aggrieved by the said proceedings, he raised an Industrial Dispute in I.D.No.11 of 2002 on the file of the Labour Court-I, Hyderabad, which was subsequently transferred to the Industrial Tribunal-II, Hyderabad, and renumbered

as I.D.No.110 of 2004. The Labour Court, vide award dated 27.07.2005, set aside the removal orders, but directed the 2nd respondent-Corporation to pay a lump sum amount of Rs.75,000/- to the petitioner instead of ordering reinstatement into service with continuity of service and back wages. Assailing the award of the Industrial Tribunal, in so far as not ordering reinstatement into service with continuity of service and backwages, the petitioner filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent-APSRTC.

4. Learned counsel for the petitioner mainly contends that the Labour Court, having held that the order of removal dated 29.06.1998 passed by the 2nd respondent is illegal and having set aside the same, ought to have granted reinstatement with continuity of service, back wages and other benefits instead of directing the 2nd respondent to pay a lump sum amount of Rs.75,000/- to the petitioner in lieu of reinstatement. He, thus, prays to allow the writ petition and set aside the award of the Labour Court.

5. On the other hand, learned Standing Counsel appearing on behalf of the 2nd respondent-Corporation vehemently opposed the said contention and submitted that the Labour Court, after careful consideration of the entire material and evidence available on record together with the explanation submitted by the petitioner, has passed the impugned order, hence, no reasons to interfere with the same.

6. The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or

fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Industrial Tribunal, is to be examined.

7. A perusal of the award of the Labour Court would show that the Labour Court, having held that the order of removal passed against the petitioner, based on the earlier enquiry report for his subsequent absenteeism, is improper and illegal, set aside the same. However, the Labour Court, after taking into consideration of the fact that even though the removal orders dated 29.06.1998 were served on the petitioner soon after passing the said orders, he did not prefer any departmental appeal or revision immediately, and he filed the present I.D. after 3 ½ years of his removal and he did not assign any reasons for not filing the I.D. immediately, and in view of the fact that after his removal, the petitioner has been working as Private Security Guard and getting an income of Rs.1,500/- per month and that only two years of time was left over for his attaining the age of superannuation, directed the 2nd respondent to pay a lump sum amount of Rs.75,000/- to the petitioner instead of ordering reinstatement of the petitioner into service with continuity of service and backwages. The award passed by the Labour Court is a discretionary one and no interference is called for therewith by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

8. The Writ Petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 26.10.2006

sj/nsr